

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**SARAH A. FRAZIER,**

**Plaintiff,**

**v.**

**THOMAS JEFFERSON  
UNIVERSITY HOSPITAL,**

**Defendant.**

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**CIVIL ACTION NO. 02-CV-4848**

**ANSWER TO COMPLAINT**

Defendant, Thomas Jefferson University Hospital ("TJUH"), hereby answers Plaintiff's Complaint.

1. Admitted.

2. Denied.

3. (As amended). Defendant admits only the following: that in the course of the Plaintiff's employment with TJUH, Plaintiff's supervisor explained to Plaintiff that she could make the correct placement of a white heart monitor lead on a patient's right shoulder by remembering "white is right"; that Plaintiff was suspended in or about October 1998, because of inappropriate conduct in a patient area; that Plaintiff brought grievances relating to her suspension and to alleged harassment by other employees through her union; that Plaintiff filed a complaint with the Pennsylvania Human Relations Commission; that following her suspension in October 1998, Plaintiff took a medical leave of absence claiming mental health reasons, and that Plaintiff's supervisor advised Plaintiff that if Plaintiff applied for a transfer upon her return to work, Plaintiff's record would not be withheld from the new department. Defendant is without information sufficient to respond to allegations regarding

alleged communications between Plaintiff and third parties, and those allegations therefore are denied. Defendant denies the remaining allegations of paragraph 3 of the Complaint, as amended.

4. Defendant denies that it has violated Plaintiff's rights or that Plaintiff is entitled to any remedy. Defendant is without information sufficient to respond to Plaintiff's allegations regarding her medical condition and those allegations therefore are denied.

5. Defendant admits that Plaintiff has attached a Right-To-Sue letter to the Complaint.

6. Paragraph 6 states a request for jury trial to which no response is required.

### **AFFIRMATIVE DEFENSES**

#### **FIRST DEFENSE**

Plaintiff fails to state a claim of discrimination or discriminatory harassment as a matter of law.

#### **SECOND DEFENSE**

Plaintiff fails to state any claim as a matter of law.

#### **THIRD DEFENSE**

Plaintiff's claims are preempted by the Labor Management Relations Act.

#### **FOURTH DEFENSE**

Plaintiff's claims may be barred, in whole or in part, by failure to exhaust administrative remedies.

#### **FIFTH DEFENSE**

Obesity is not a disability as a matter of law.

#### **SIXTH DEFENSE**

Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

**SEVENTH DEFENSE**

Plaintiff's claims are barred, in whole or in part, by the Pennsylvania Worker's Compensation Act.

**EIGHTH DEFENSE**

Plaintiff's claims are barred because any requirements or policies applied to Plaintiff were job-related and consistent with business necessity.

**NINTH DEFENSE**

Plaintiff is not entitled to some or all of the relief requested as a matter of law.

**TENTH DEFENSE**

If Plaintiff has brought claims under the Pennsylvania Human Relations Act ("PHRA"), she is not entitled to a jury trial on those claims.

**ELEVENTH DEFENSE**

If Plaintiff has brought claims under the PHRA, she is not entitled to punitive damages on those claims.

**TWELFTH DEFENSE**

Plaintiff's claims for damages may be barred, in whole or in part, by her failure to mitigate.

**THIRTEENTH DEFENSE**

Plaintiff's claims may be barred, in whole or in part, by the doctrines of estoppel and/or waiver.

Defendant may have additional, yet unstated, affirmative defenses available. Defendant reserves the right to assert additional affirmative defenses in the event discovery or the course of the case indicates additional affirmative defenses would be appropriate.

WHEREFORE, Defendant requests that the Court dismiss the Complaint with prejudice and award defendant attorneys' fees, costs and all other appropriate relief.

Respectfully submitted,

/s/ *Raymond A. Kresge*

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify this on this 15th day of November 2002, I caused to be served a true and correct copy of the foregoing Answer to Complaint by first-class mail postage prepaid upon plaintiff:

Sarah Frazier  
5015 N. 9<sup>th</sup> Street  
Philadelphia, PA 19141

/s/ *Raymond A. Kresge*  
RAYMOND A. KRESGE